IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 25789 of 2007(T)

PETITIONER:

K.SASI,
MANAGING DIRECTOR, V.S.MARKETING FEDERATION,
PRADEEP SADANAM, PANAPETTY, PORUVAZHI P.O.,
SASTHAMCOTTA, KOLLAM DISTRICT.

BY ADV. SRI.BRIJESH MOHAN
SMT.RESMI G. NAIR

RESPONDENTS:

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1. THE PRINCIPAL AGRICULTURAL OFFICER,
KOLLAM.

2. THE QUALITY CONTROLLER,
AGRICULTURE DEPARTMENT, COLLECTORATE, KOLLAM.

3. THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, SASTHAMCOTTA.

4. THE PRESIDENT,
SASTHAMCOTTA GRAMA PANCHAYAT,
SASTHAMCOTTA.

5. SASTHAMCOTTA GRAMA PANCHAYAT,
SASTHAMCOTTA, REPRESENTED BY ITS SECRETARY.

R1 TO R3 BY GOVT. PLEADER MR.K.J.MOHAMMED ANSAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 25789/07)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE LICENCE ISSUED TO THE PETITIONER'S BROTHER BY PORUVAZHI GRAMA PANCHAYAT.

EXT.P1(a): TRUE COPY OF THE NOC ISSUED BY THE SASTHAMCOTTA PANCHAYAT TO THE PETITIONER.

EXT.P2: TRUE COPY OF THE RESOLUTION DATED 22.5.2007 ISSUED BY THE 5TH RESPONDENT.

EXT.P3: COPY OF THE COMMUNICATION DATED 13.6.07 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT.

EXT.P4: COPY OF THE REPLY DATED 25.6.07 SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT.

EXT.P5: COPY OF THE REPLY DATED 25.6.07 SUBMITTED BY THE PETITIONER BEFORE THE 5TH RESPONDENT.

EXT.P6: COPY OF THE REQUEST DATED 21.7.07 SUBMITTED BY THE PETITIONER BEFORE THE 5TH RESPONDENT.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.25789 of 2007

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Dated: 5th September, 2007

JUDGMENT

Even though notice was taken to the respondents by special messenger and respondents 4 and 5 have been served, they have not entered appearance before this court to resist the prayers in this Writ Petition.

2. Having gone through the averments in the Writ Petition and the various materials placed on record by the petitioner and having considered the submissions addressed at the Bar by Mr.Brijesh Mohan, counsel for the petitioner and the learned Government Pleader on behalf of respondents 1 to 3, I am of the view that the petitioner is entitled for relief. The petitioner is in need of an N.O.C. from the 5th respondent-Panchayat so as to enable him to obtain licence from the 1st respondent, the Principal Agricultural Officer for the commencement of a manure depot and accordingly he filed application on 17.5.2007 for N.O.C. Considering that application as an application for licence the Panchayat issued Ext.P3 on the basis of a resolution by the Committee to have an enquiry into the question as to the types of fertilizers to be stored in the proposed manure depot, whether they will be injurious to human life etc. But as rightly

submitted by the counsel for the petitioner, those are all matters to be considered by the 2nd respondent, the Quality Controller who is technically qualified to decide whether the fertilizers and chemicals to be stored in a manure depot will cause any injury to the general public. The general tenor of Ext.P3 seems to be negative and I find that the Panchayat has insisted on a written consent from the owner of the building. It is seen that a copy of the lease deed was produced along with the application for N.O.C. In Ext.P3 the Panchayat says that the lease deed has not been properly attested and that it is obligatory that the party produces consent itself. These, according to me, are technical objections and it should not stand in the way of N.O.C. being issued.

3. Under these circumstances, I allow the Writ Petition quashing Ext.P3 and direct the Panchayat to issue N.O.C. to the petitioner upon the petitioner producing an attested copy of the lease deed executed by him in respect of the building in which the manure depot is proposed to be conducted. Once N.O.C. is obtained and produced before the 1st respondent, the 1st respondent will take a proper decision on the petitioner's application for licence. The Panchayat will

comply with the directions at the earliest and at any rate within one month from the date of production of a copy of this judgment.

srd **PIUS C.KURIAKOSE, JUDGE**